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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,167	04/25/2001	Michael G. Foulger	2018.0030001	4114
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER VAN DOREN, BETH	
			ART UNIT 3623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/841,167

Applicant(s)

FOULGER ET AL.

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6,9,10,15-18,21-23,26-29 and 32-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6,9,10,15-18,21-23,26-29 and 32-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20071026,20071030A,20071030B.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a Final office action in response to communications received 10/26/2007. Claims 3-6, 9, 10, 15-18, 21-23, 26-29, and 32-46 are pending.

Response to Arguments

2. Applicant's arguments with regards to Carpenter et al. (U.S. 2003/0229638) and the Carpenter et al. provisional (60/180368) have been fully considered, but they are not persuasive. In the remarks, applicant argues that the provisional application 60/180368 from which U.S. 2003/0229638 claims priority does not disclose the features of calculating a ratio and incrementing a counter.

In response to this argument, Examiner respectfully disagrees. A non-provisional application is afforded the priority date of the provisional application so long as there is adequate written description to support that the inventors did in fact have possession of the invention described in the non-provisional application at the time of filing the provisional. The support found in the provision does not have to be verbatim as long as one reasonably feels that the inventor had possession of the invention at time of filing. Thus, the non-provisional application is itself proper prior art, unless it can be proven that the disclosure is not fully supported by the provisional.

In this case, Examiner is not persuaded by Applicant's arguments with regards to the teachings of Carpenter et al. First, with regards to the "calculating a ratio" feature, examiner notes that she relied on Carpenter et al., specifically paragraphs 0046-7, 0054-6, to teach this limitation. Carpenter et al. specifically discloses processing and indexing documents. Documents are classified as job-postings, resumes, or irrelevant. The classification further

includes location information (city, state, and zip code). Through this process, the document becomes searchable, such as by city, state, etc. See paragraphs 0042-3. See also paragraphs 0044-5 and 0049-50 for context. After the information above is stored in the system, the resumes and job listings are matched. Carpenter states that a search is performed on the resumes and a set of resumes with a relevant percentage rate are returned as good matches. Therefore a proportion of the entire pool of resumes is returned as results to the search. See paragraph 0054.

Looking to the provisional for support that the inventor had possession of the invention at time of filing, the provisional application of Carpenter et al. discusses such storing document and making them searchable (See at least pages), as well as returning a proportion of the entire pool of resumes (See at least pages 2, 4, 7-9, which discloses the concept based searching technology. See pages 12, 16, 19, where search results that are gained that are a portion of the entire pool).

With regards to the “incrementing a counter” feature, examiner notes that she relied on Carpenter et al., specifically paragraphs 0046-7, 0054-6, to teach this limitation. A spider engine in the system collects data, which is indexed and stored. As information is retrieved and stored, operating parameters of the system are dynamically updated. Limits are checked against amounts of new data in order to determine whether to postpone the spider engine or increase its capability. Therefore, a spider retrieves resume and job posting content. In the broadest reasonable interpretation, a “counter” is anything used to keep a count of something. In the system of Carpenter, the amount of data stored is tracked and when the amount is higher than a limit, the spider’s activity is changed. The system also maintains count of the age of documents. Therefore, Carpenter teaches counters associated with the data of the system. See paragraphs 0046-8.

Looking to the provisional for support that the inventor had possession of the invention at time of filing, the provisional application of Carpenter et al. discusses spider technology and counting documents. See pages 8-9, 11-12, which discloses spider tools, real time indexes, and data collection.

Therefore, Examiner maintains that Carpenter et al. is an appropriate prior art reference supported by provisional 60/180368 with regards to these features.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 3-6, 9-10, 15-18, 21-23, 26-29, and 32-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Carpenter et al. (U.S. 2003/0229638).

As per claim 3, Carpenter et al. teaches a method of generating employment market statistics from a network, comprising the steps of:

(a) accessing an employment resource via the network, the employment resource comprising data (See paragraphs 0013, 0019, 0036 which discloses accessing via the Internet employment resource data);

(b) matching the data to one of a plurality of employment market categories (See paragraphs 0019-20, 0036, 0042-3, wherein the data is matched to a market category); and

(c) updating at least one statistical indicator associated with the matched employment market category (See paragraphs 0046-7, 0054-6, wherein indexed data is collected, organized, and interpreted);

wherein step (c) comprises the step of calculating a ratio of resumes associated with the matched employment market category to job listings associated with the matched employment market category (See paragraphs 0054-6, wherein a relation of a resume to multiple job listing or a job listing to multiple resumes occurs).

As per claim 4, Carpenter et al. teaches a method of generating employment market statistics from a network, comprising the steps of:

(a) accessing an employment resource via the network, the employment resource comprising data (See paragraphs 0013, 0019, 0036 which discloses accessing via the Internet employment resource data);

(b) matching the data to one of a plurality of employment market categories (See paragraphs 0019-20, 0036, 0042-3, wherein the data is matched to a market category); and

(c) updating at least one statistical indicator associated with the matched employment market category (See paragraphs 0046-7, 0054-6, wherein indexed data is collected, organized, and interpreted);

wherein step (c) comprises the steps of:

incrementing a first counter associated with the matched employment market category when the employment resource is a resume (See paragraphs 0036 and 0046-9, wherein a counter is updated associated with the matched resume, the counter counting the time);

incrementing a second counter associated with the matched employment market category when the employment resource is a job listing (See paragraphs 0036 and 0046-9, wherein a counter is updated associated with the matched job posting, the counter counting the time).

As per claim 5, Carpenter et al. discloses wherein each of the plurality of market categories corresponds to a particular labor type and region (See figure 10 and paragraphs 0042-3, 0050, which discloses title, description, and location).

As per claim 6, Carpenter et al. discloses wherein step (b) comprises the steps of:

matching the employment resource to a raw category (See figure 2, and paragraph 0037, 0042, which discusses the received information being categorized as unprocessed);

matching the employment resource to an interim category (See figure 2 and paragraph 0042, wherein the data is processed and temporarily stored in a short term state category);

matching the employment resource to an employment market category (matching to final category (See paragraph 0042-3, wherein the resource is matched).

As per claim 9, Carpenter et al. discloses wherein step (a) comprises the steps of:

sending a client request across the network to a server (See figure 1 and paragraphs 0013, 0019, 0036-7, wherein the request is sent via a network and server); and

receiving the employment resource via the network (See figure 1 and paragraphs 0013, 0019, 0036, wherein the resource is received).

As per claim 10, Carpenter et al. discloses a method further comprising the steps of:

repeating steps (a) through (c) for each of a plurality of employment resources (See paragraphs 0036-7, 0039, 0045, 0054-6, wherein the process repeats to maintain fresh data); and for each of the plurality of market categories, plotting the associated statistical indicator (See paragraphs 0022, 0054-0056, wherein the updating indicator is designed and mapped).

Claims 15-18 and 21-22 recite equivalent limitations to claims 3-6 and 9-10, respectively, and are therefore rejected using the same art and rationale applied above.

As per claim 23, Carpenter et al. teaches the limitations of claim 23 as discussed above with regards to claim 3. Carpenter et al. further teaches a spider engine that accesses an employment resource and a statistical analysis engine (See paragraphs 0035-6, 0039, 0047 which discusses a spider engine accessing the data over the network. See paragraphs 0047-8, 0054-6, which discusses an analysis engine).

Claims 26-29 and 32-33 recite equivalent limitations to claims 3-6 and 9-10, respectively, and are therefore rejected using the same art and rationale applied above.

Claims 34-35, 36-37, 38-39, and 40-41 recite equivalent limitations to claims 5-6, 9-10, 5-6, and 9-10, respectively, and are therefore rejected using the same art and rationale applied above.

Claim 42 recites equivalent limitations to claims 23 and 4 and is therefore rejected using the same art and rationale applied above.

Claims 43-44 and 45-46 recite equivalent limitations to claims 5-6 and 9-10, respectively, and are therefore rejected using the same art and rationale applied above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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bvd
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January 2, 2008

Beth Van Doren
BETH VAN DOREN
PRIMARY EXAMINER